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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/506,494

04/05/2005

Ennio Mercuri

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EXAMINER

PARSLEY, DAVID J

ART UNIT

PAPER NUMBER

3643

MAIL DATE

DELIVERY MODE

06/08/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/506,494

Applicant(s)

MERCURI, ENNIO

Examiner

David J. Parsley

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9-3-04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **Detailed Action**

### ***Preliminary Amendment***

1. Entry of applicant's preliminary amendment dated 9-3-04 into the application file is acknowledged.

### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains legal phraseology in particular the term "means". Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "said tapered section" in line 4. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,761,189 to Brennan et al.

Referring to claims 1 and 12, Brennan et al. discloses a hand operated shirring machine including, a body – at 2-12, through which a stuffing tube – at 2, covered in casing may pass – see figures 1-2, a casing engaging means – at 41,48, that engages the casing as the shirring machine is pushed along the stuffing tube from its discharge end so that the casing is drawn onto the stuffing tube and that disengages from the casing when it is pulled in the opposite direction –

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see figures 1-2, and grasping means – at 45 and 72 and 76, for grasping the shirring machine to manually move it back and forth along the stuffing tube – see figures 1-2 and page 2 lines 3-116.

Referring to claim 2, Brennan et al. further discloses the casing engaging means includes a plurality of annular segments – at 41, arranged about the circumference of the stuffing tube – at 2 – see figures 1-2.

Referring to claim 3, Brennan et al. further discloses the casing engaging means includes a plurality of fingers – at the outside of 41 or at – 48, attached to the body arranged about the circumference of the stuffing tube – see figures 1-3.

Referring to claim 4, Brennan et al. further discloses the fingers are connected to a continuous circumferential spring – at 42 or 44 or 79, biased to draw the fingers towards the stuffing tube – see figures 1-3.

Referring to claim 5, Brennan et al. further discloses the casing engaging means includes a spring mounted member – at 41, located in a tapered section – at 41, on the body – see figures 1-3, wherein as the member slides longitudinally with respect to the body within the tapered section the member is forced to grip the casing when the member is moved in one direction and release the casing when the member is moved in an opposite direction – see figures 1-3.

Referring to claim 6, Brennan et al. further discloses the body is tubular – see at 2 or 12 or 14 in figures 1-4.

Referring to claim 7, Brennan et al. further discloses the body includes a first tubular section – at 12, having disengaging means – at 13, a second tubular section – at 7,74, having casing engaging means – at 41,48, interfacing with the tapered portion – at 48,49,53,54 – see figures 1-4, wherein first and second tubular sections are slidably movable a predetermined

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distance relative to each other so that the casing engaging means – at 48, is forced to grip the casing when the first and second tubular sections are slid apart from each other and disengaging means acts upon the casing engagement means to release the casing when the first and second tubular sections are slid toward each other – see figures 1-4.

Referring to claim 8, Brennan et al. further discloses the casing engaging means includes a plurality of annular segments – at portions of 48, arranged about the circumference of the stuffing tube – see figures 1-4.

Referring to claim 9, Brennan et al. further discloses the casing engaging means includes a plurality of fingers – at 48,49, pivotally attached to the second tubular section arranged about the circumference of the stuffing tube – see figures 1-4.

Referring to claim 10, Brennan et al. further discloses the fingers are connected to a continuous circumferential spring – at 42 or 44 or 79, biased to draw the fingers towards the stuffing tube – see figures 1-4.

Referring to claims 11, Brennan et al. further discloses the grasping means – at 45, includes a pair of handles – see figures 1-4.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to stuffing/shirring devices in general:

U.S. Pat. No. 2,001,461 to Hewitt – shows shirring machine

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U.S. Pat. No. 3,553,769 to Myles et al. – shows stuffing machine

U.S. Pat. No. 4,133,164 to Mintz – shows shirring machine

U.S. Pat. No. 4,550,471 to Beckman et al. – shows shirring machine

U.S. Pat. No. 4,910,034 to Winkler – shows stuffing machine

U.S. Pat. No. 4,924,552 to Sullivan – shows stuffing machine

U.S. Pat. No. 5,042,234 to Evans et al. – shows shirring machine

U.S. Pat. No. 6,123,654 to LaFleur – shows shirring machine

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890.

The examiner can normally be reached on Monday-Friday from 8am to 4pm.

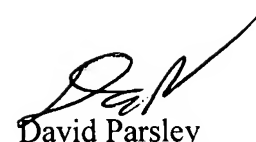
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to read 'D. Parsley', with a long, sweeping horizontal stroke extending to the right.

David Parsley  
Primary Examiner  
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